

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Examiner: Jason Lazorcik

Kearnes et al.

Group Art Unit: 1731

Serial No.: 10/618,959

Attorney Docket: 45837.2.11

Filed: July 14, 2003

Assignee: Azotic Coating Technology, Inc

For: GEMSTONE MATERIAL

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF SUBSTANCE OF INTERVIEW

Applicant's representatives would like to thank Examiner Lazorcik for extending them the courtesy of a personal interview on 22 February 2007 to discuss this case. The following recordation of the substance of the interview is believed to be complete and proper, as required by MPEP 713.04. It is requested that the Examiner notify the undersigned if the Examiner believes this statement of interview substance contains any material inaccuracies or if the Examiner believes this Statement is otherwise not complete and proper.

Interview participants: (1) Examiner Jason L. Lazorcik; (2) Applicant's attorney, Eric J. Snustad; and (3) Applicant's attorney, John F. Dolan.

Applicant's representatives showed a slab of gemstone material in accordance with certain embodiments of the invention. Applicant's representatives also showed a faceted

gemstone cut from a slab of the gemstone material. Otherwise, no exhibits or demonstrations were shown during the interview.

Independent claims 25, 47 and 49 were discussed during the interview.

The following prior art was discussed during the interview: (1) U.S. Patent Application Publication U.S. 2003/00149888 (Cabo); (2) U.S. Patent 6,749,936 (Argoitia); (3) U.S. Patent 5,208,080 (Gajewski); (4) U.S. Patent 5,424,119 (Phillips); and (5) the web page of unclear origin applied in the outstanding Office Action.

No agreement was reached during the interview.

No amendments were proposed by Applicant's counsel during the interview.

The general thrust of the principal arguments made during the interview are those presented in the Amendment filed 17 January 2007.

In connection with independent claims 25 and 49, Applicant's representatives pointed out that the primary reference, Cabo, has as its goal the generation of a black spot on its laminate. Cabo heats its laminate in a furnace, and suggests that the black spot is formed by oxidation of ceramic paint on the laminate during heating. Thus, Cabo suggests that the oxygen present during heating creates the desired black spot. The Examiner's proposed combination involves importing a vacuum heating process from another reference, Gajewski, and using that vacuum heating process on the laminate of Cabo. During the interview, Applicant's representatives pointed out that Cabo teaches against changing to a vacuum heating process. Using a vacuum process on the laminate of Cabo would, according to the teachings of Cabo, not be expected to yield the desired black spot. Thus, the proposed modification would destroy the intended purpose of Cabo. Independent claims 25 and 49, therefore, are not obvious.

Further, in connection with independent claims 25 and 49, Applicant's representatives noted that the respective heat treating processes taught by the primary reference, Cabo, and the secondary reference, Gajewski, are detailed, specific processes with very different aims. Thus, as explained in the previously-filed Amendment, even the proposed combination of Cabo and Gajewski would result in a vacuum heating process with far lower temperatures than those required by independent claims 25 and 49.

Still further, in connection with independent claim 25, Applicant's representatives pointed out that there is no motivation in the applied references to suggest the ceramic tile of Cabo should be cut into a plurality of faceted gemstones or cabochons, which method steps (and the resulting structure of a plurality of faceted gemstones or cabochons) are required by independent claim 25. The Examiner indicated he is construing the cutting step (step c) of claim 25 as simply requiring the slab to be cut (in any manner). Applicant's representatives argued that such a claim construction ignores elements of the claim, as the relevant language of step c specifically requires cutting the slab into a plurality of faceted gemstones or cabochons. Applicant's representatives also argued that people of ordinary skill in the present art would clearly understand that the claimed method step of cutting the slab into a plurality of faceted gemstones or cabochons does not merely require cutting the slab in any manner.

Applicant's representatives also pointed out that, with respect to independent claim 49, none of the references used in the allegedly obvious combination teach the required particle sorting and recombining steps. The claimed sorting and recombining steps are simply not found in any of the applied references. Therefore, no prima facie case of obviousness has been established. The combination proposed in the Office Action merely involves the particles being

sifted through a sieve. That simply assures the particles will be smaller than a certain size. It does not accomplish the step of separating the particles into multiple groups of different particle size, and then combining some particles from one of the groups with some particles from at least one other group, so as to have a repeatable size distribution of particles from at least two different size ranges.

Finally, in connection with independent claim 47, Applicant's representatives argued that this claim cannot be considered obvious over the proposed combination of Cabo, Argoitia, Phillips, and the web page of unclear origin. Applicant's representatives noted that there are multiple shortcomings in the numerous motivations to combine required to support the proposed combination. During this part of the interview, Applicant's representatives outlined the relevant arguments of record in the previously-filed Amendment.

No other pertinent matters were discussed during the interview.

Respectfully submitted,

/ Eric J. Snustad/

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